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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/789,296	02/27/2004	Timothy A. Otterlee	R122 1020.2	7621

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EXAMINER

VANAMAN, FRANK BENNETT

ART UNIT	PAPER NUMBER
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3618

MAIL DATE	DELIVERY MODE
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07/01/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/789,296	Applicant(s) OTTERLEE ET AL.	
	Examiner Frank B. Vanaman	Art Unit 3618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 February 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-6,9-11 and 31-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-6,9-11,31,32 and 34-38 is/are rejected.
- 7) ☒ Claim(s) 33 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>11/21/07</u> . | 6) <input type="checkbox"/> Other: _____ |

Status of Application

1. Applicant's amendment, filed Feb. 29, 2008, has been entered in the application. Claims 1, 3-6, 9-11, 31-38 are pending, claims 2, 7, 8, and 12-30 are canceled.

Claim Rejections - 35 USC § 103

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 1, 3-6, 9 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Symons (US 6,155,580, newly cited by applicant) in view of Harwood (GB 2,116,490, newly cited by applicant). Symons teaches a plastic shopping cart including a molded body (1) with a forward basket portion and a rearward seating portion, the body having laterally spaced side walls and a rear wall (13) extending between the side walls so as to partially enclose the seating portion, a panel (17) which forms a forward wall of the seating portion, the panel serving to separate the seating and basket regions of the body, and being removable upon disengagement of connecting hinges 18 and/or 20, being thusly adjacent both sections, a frame (2, 3) connected to the body, and a plurality of wheels (4) connected to the frame. The reference to Symons fails to teach the provision of a separately identified basket in the basket portion. Harwood teaches that it is very old and well known to provide separate baskets (20, 22) in a cart having a basket accommodating portion (16) wherein at least two sides of the baskets are disposed in covered relationship with two respective sides of the basket accommodating portion. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the cart taught by Symons with baskets located in a basket accommodating portion of the cart, for the purpose of providing easier self-service options for customers, and/or allowing items to be purchased to be placed in separate baskets, enhancing a customer's degree of organization.

As regards claim 5, the reference to Symons as modified by Harwood fails to teach the number of the wheels as being six, however it is within the skill of the ordinary practitioner to duplicate elements already taught for the purpose of enhancing the taught operation of the element, or multiplying the effect thereof, and as such, it would

have been obvious to one of ordinary skill in the art at the time of the invention to provide six, rather than four, wheels for the purpose of reducing the loading on each individual wheel, beneficially extending wheel life and/or allowing wheels of lower cost to be used.

As regards claim 9, the reference to Harwood fails to teach that the baskets (20) are made from wire mesh. Wire mesh is very well known in the shopping cart field as a convenient construction material, however, such material being beneficially useful for providing a strong durable structure of relatively low cost, and as such, it would have been obvious to one of ordinary skill in the art at the time of the invention to make the baskets taught by the modifying reference to Harwood from a wire mesh for the purpose of constructing a relatively low cost basket structure which is highly durable and strong.

4. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Symons in view of Harwood and Myers (US 5,002,292, newly cited by applicant, mis-identified as "Hutchison" -- see item "I" in the IDS). The references to Symons and Harwood are discussed above and fail to teach that the basket is fixedly connected to the body. Myers teaches that it is well known to fixedly connect a basket structure (e.g., 35, 53) to a basket accommodating portion of a cart with a fixed connection. It would have been obvious to one of ordinary skill in the art at the time of the invention to fixedly connect a basket such as taught by Harwood to the cart such as taught by Symons, based upon the fixed-connection teaching of Myers, for the purpose of ensuring that the basket is not inadvertently or deliberately removed by an unauthorized person.

5. The indicated allowability of claims 31, 32, and 34-37 is withdrawn in view of the reference(s) to Symons, Harwood, Myers '292 and Myers '051, all references having been cited by applicant in the most recent Information Disclosure Statement.

Rejections based on the newly cited reference(s) follow.

6. Claims 31, 32, 34, 35, 37 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Symons in view of Harwood and Myers (US 5,836,051, newly cited by applicant). The references to Symons and Harwood are discussed above and fail to teach the provision of an electronic device mounted along the body in a position facing the seating portion, including a video display device which may comprise a type of

screen, and/or an audio device. Myers teaches that it is well known to provide a child-seat-facing portion of a data center for a shopping cart with an entertainment device (44, 46), which is further taught to optionally be a video device including a flat liquid crystal display or an audio device, or a cassette player, or one of a number of other devices. See col. 5, lines 13-23. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the cart taught by Symons as modified by Harwood with a data device with further audio or video display capabilities as taught by Myers, for the purpose of providing a more complex form of entertainment for a child on the cart than can be had from a simpler toy such as spinning bead elements.

7. Claim 36 is rejected under 35 U.S.C. 103(a) as being unpatentable over Symons in view of Harwood, Myers ('051) and Myers ('292). The references to Symons, Harwood and Myers ('051) are discussed above and fail to teach that the basket is fixedly connected to the body. Myers ('292) teaches that it is well known to fixedly connect a basket structure (e.g., 35, 53) to a basket accommodating portion of a cart with a fixed connection. It would have been obvious to one of ordinary skill in the art at the time of the invention to fixedly connect a basket such as taught by Harwood to the cart such as taught by Symons, based upon the fixed-connection teaching of Myers, for the purpose of ensuring that the basket is not inadvertently or deliberately removed by an unauthorized person.

Allowable Subject Matter

8. Claim 33 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Comments

9. Applicant's comments have been carefully considered. Initially, the examiner notes that applicant has asserted the limitations of claim 2 have been incorporated into claim 1. This is misleading at best, as the resulting claim 1 lacks all limitations which were present in claim 2 as last presented. Applicant is very pointedly reminded that claims are cumulative. Previous claim 2 included all limitations of previous claim 1 as well. In deleting limitations from claim 1 in the most recent amendment, applicant has

presented a claim which does not include all limitations of previous claim 2. The examiner notes that applicant has not mentioned that claim 1 has been amended to delete previously presented limitations. Applicant is explicitly invited to explain how claim 1 as now presented includes all limitations of claim 2 as previously indicated to be allowable. The allowability of claims 31, 32 and 34-37 is withdrawn in view of the references cited by applicant in the most recent IDS which was filed under 36 CFR 1.97(c) accompanied by the fee set forth in 37 CFR 1.17(p).

Conclusion

10. Applicant's submission of an information disclosure statement under 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p) on Nov. 21, 2007 prompted the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 609.04(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

11. Any inquiry specifically concerning this communication or earlier communications from the examiner should be directed to F. Vanaman whose telephone number is 571-272-6701.

Any inquiries of a general nature or relating to the status of this application may be made through either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A response to this action should be mailed to:

Mail Stop _____
Commissioner for Patents

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Art Unit: 3618

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Alexandria, VA 22313-1450,

Or faxed to:

PTO Central Fax: 571-273-8300

F. VANAMAN

Primary Examiner

Art Unit 3618

/Frank B Vanaman/

Primary Examiner, Art Unit 3618